

**IN THE UNITED STATES DISTRICT COURT  
OF THE DISTRICT OF COLUMBIA**

**GOVERNMENT ACCOUNTABILITY  
PROJECT,**

1612 K St. NW, Suite #1100  
Washington, DC 20006

**Plaintiff,**

**v.**

**U.S. DEPARTMENT OF HEALTH AND  
HUMAN SERVICES**

200 Independence Ave SW  
Washington, DC 20201

**Defendant.**

Civil Action No. \_\_\_\_\_

**COMPLAINT FOR INJUNCTIVE RELIEF**

NOW COMES Plaintiff, GOVERNMENT ACCOUNTABILITY PROJECT (GAP), by its undersigned attorneys, and brings this action to overturn Defendant U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES' (HHS) failure to provide status updates, estimated completion dates, or timely responses with respect to a series of Freedom of Information Act (FOIA) requests made on August 3, 2018, and August 5, 2018.

**INTRODUCTION**

1. Pursuant to the fundamental philosophy of the American constitutional form of government, it is the public policy of the United States to foster democracy and allow any person to obtain copies of the records of agencies for any public or private purpose consistent with the terms of the federal Freedom of Information Act, 5 U.S.C. § 552.

## **PARTIES**

2. Plaintiff Government Accountability Project (GAP) is a non-profit organization serving the public by protecting government and corporate whistleblowers who expose wrongdoing.

3. Defendant U.S. Department Of Health And Human Services (HHS) is an agency of the United States Government under 5 U.S.C. § 552(f)(1) and 5 U.S.C. § 551(1). HHS is headquartered at 200 Independence Avenue, S.W., Washington, D.C. 20201. HHS has possession, custody, and control of the documents that Plaintiff seeks in response to the FOIA requests.

## **JURISDICTION AND VENUE**

4. This case is brought under 5 U.S.C. § 552(a)(6)(C)(i) and 552(a)(4)(B) and presents a federal question conferring jurisdiction on this Court pursuant to 28 U.S.C. § 1331.

5. Venue is proper under 5 U.S.C. § 552(a)(4)(B) because this District is always a permissible venue for federal FOIA suits.

## **August 3, 2018 and August 5, 2018 FOIA REQUESTS**

6. On August 3, 2018 GAP requested the following records: (1) Any and all email correspondence and communications from January 1, 2017 to present between GS-14, GS-15, and SES employees within the Department of Health and Human Services mentioning “Cyber Incident Response Team” and “Stephen Curren” in the same record. Please include the full email chains and any and all forwards and replies to the emails. (2) Any and all email correspondence and communications from January 1, 2017 to present between GS-14, GS-15, and SES employees within the Department of Health and Human Services mentioning “HCCIC” and “Wannacry” and/or “Scanlon” and/or “Amato” in the same record. Please include the full email

chains and any and all forwards and replies to the emails. (3) Any and all evaluations and reviews on employee Stephen Curren from April 1, 2017 to present mentioning “HCCIC” and/or “Wannacry.” (4) Any and all evaluations and reviews on employee Leo Scanlon from April 1, 2017 to present mentioning “HCCIC” and/or “Wannacry.” (5) Any and all evaluations and reviews on employee Maggie Amato from April 1, 2017 to present mentioning “HCCIC” and/or “Wannacry.” (6) Any and all reviews and evaluations on male employees conducted by Christopher Wlaschin and Human Resources from May 1 2017 to present. (7) Any and all reviews and evaluations on female employees conducted by Christopher Wlaschin and Human Resources from May 1 2017 to present. (8) Expenditure report for Vinayak Sinha’s travel expenses during his reported California visits in 2016 and 2017. (9) Any and all use reports from June 27, 2017 to present from Vinayak Sinha after hours involving cyber threat response programs. (10) Any and all communication sent to or received by Christopher Wlaschin, Vinayak Sinha, and/or Beth Killoran with key words “OIG”, “investigation”, “protected disclosure”, “complaint”, and/or “committee” from April 1 2017 to present. A true and correct copy of the request is attached as Exhibit A.

7. On August 5, 2018, GAP requested the following documents in a separate request: (1) Any and all emails, Slack chat logs, and Matter Most logs, sent to or received by, Eddie Blankenship, William Welch, Jennifer Hart, Wesley Snell, Blair McDonald Sarah Hall, Vinayak Sinha, Christopher Wlaschin, Beth Killoran, John Cordova, John Bardis, Matt Koegler mentioning keywords HCCIC and Akiva during the timeframes of June 15, to July 5, 2017, July 24 to August 10, 2017 and August 24 to September 10, 2017. (2) Any and all emails, Slack chat logs, and Matter Most logs, sent to or received by, Eddie Blankenship, William Welch, Jennifer Hart, Wesley Snell, Blair McDonald Sarah Hall, Vinayak Sinha, Christopher Wlaschin, Beth

Killoran, John Cordova, John Bardis, Matt Kogler mentioning Leo Scanlon (who may be identified as Leo or Scanlon in the communications) and Maggie Amato (who may be identified as Maggie or Amato in the communications) during the timeframes of June 15, to July 5, 2017, July 24 to August 10, 2017 and August 24 to September 10, 2017. (3) Any and all emails, Slack chat logs, and Matter Most logs, sent to or received by, Christopher Wlaschin, Beth Killoran, Matt Olsen, Keith Tucker and Julie Murphy mentioning keywords HCCIC and Akiva between October 14 and October 21, 2017. (4) Any and all emails, Slack chat logs, and Matter Most logs, sent to or received by, Christopher Wlaschin, Beth Killoran, Matt Olsen, Keith Tucker and Julie Murphy mentioning mentioning Leo Scanlon (who may be identified as Leo or Scanlon in the communications) and Maggie Amato (who may be identified as Maggie or Amato in the communications) between October 14 and October 21, 2017. (5) Any and all emails sent from Christopher Wlaschin between August 24 and September 10, 2017. (6) Any and all emails sent by Christopher Wlaschin to Beth Killoran, Chris Skeadis, Eddie Blankenship, James Antonucci, Matthew Shallbetter, Chris Bollerer, Matthew Olsen, Julie Chua, Vinayak Sinha. containing the key words “reorganization” and “Org Chart” between April 1 and July 4, 2017. (7) Any and all emails between Christos Skeadas and Beth Killoran mentioning Leo Scanlon (who may be identified as Leo or Scanlon in the communications) and Maggie Amato (who may be identified as Maggie or Amato in the communications) during the timeframes of August 20 and September 8, 2017 and October 15 to October 25, 2017. (8) Any and all emails from Christopher Wlaschin, John Bardis, John Cordova, William Welch and Beth Killoran to any email account with the domain name @hitrustalliance.net between May 20 and October 20, 2017. (9) Any and all documents from leadership offsite meetings concerning Leo Scanlon and Maggie Amato between September 6 to September 15, 2017. (10) Any and all emails from Beth Killoran and

Christopher Wlaschin sent to John Felker, Nancy Lim and Mark Kniedeger between May 20 and October 20, 2017. (11) Any and all emails sent by Christopher Wlashin to RJ Steiger or the HHS Inspector General's office between September 1 and September 10, 2017. (12) Any and all emails between Christopher Wlaschin and HR regarding his employment between October 1, 2017 and March 17, 2018 concerning his employment. (13) Any and all emails between Christopher Wlaschin and Beth Killoran for the keyword "St position" between October 15 to October 22, 2017. A true and correct copy of the request is attached as Exhibit B.

8. On March 7, 2019, HHS provided one status update of "in progress" which has not changed since that date. A true and correct copy of the March 7<sup>th</sup> status update from HHS is attached as Exhibit C. HHS has not provided any other status updates nor an estimated completion date, let alone any of the documents requested as of now, July 11, 2019, 11 months later. The Agency is not in compliance with the requirements of the Freedom of Information Act.

**COUNT I –AUGUST 3, 2018 VIOLATION OF FOIA**

9. The above paragraphs are incorporated herein.
10. Defendant is an agency subject to FOIA.
11. The requested records are not exempt under FOIA.
12. Defendant has refused to produce the requested records in a timely manner.

**COUNT II - AUGUST 5, 2018 VIOLATION OF FOIA**

13. The above paragraphs are incorporated herein.
14. Defendant is an agency subject to FOIA.
15. The requested records are not exempt under FOIA.
16. Defendant has refused to produce the requested records in a timely manner.

**WHEREFORE**, GAP asks the Court to:

- i. declare that Defendant has violated FOIA;
- ii. order Defendant to conduct a reasonable search for records and to produce the requested records;
- iii. enjoin Defendant from withholding non-exempt public records under FOIA;
- iv. award Plaintiff attorneys' fees and costs;
- v. award such other relief the Court considers appropriate.

RESPECTFULLY SUBMITTED,

*/s/ John A. Kolar, Esq.*

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